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JUN 01 2006

OFFICE OF PETITIONS

In Application of	:	
Simmons	:	
Application No.: 10/699,716	:	ON PETITION
Filed: November 3, 2003	:	
Attorney Docket No.: J-BSIM.1007	:	
For: ANGLE-SECTION COLUMN/BEAM CONNECTOR	:	

This is a decision on the petition under 37 CFR 1.181, filed December 21, 2005 to withdraw the holding of abandonment in the above-identified application and the petition under 37 CFR 1.137(b), filed April 26, 2006, to revive the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.¹

The petition under 37 CFR 1.137(b) is **GRANTED**.

The Office contends that the above-identified application became abandoned for failure to submit a reply to the April 13, 2005 non-final Office action, which set an extendable three month period for reply. No reply being received, the Office considered this application abandoned on July 14, 2005. A Notice of Abandonment was mailed on December 5, 2005.

Petitioner alleges that the April 13, 2005 non-final Office action was not received due to Office error in mailing the correspondence to an incorrect address.

A review of the record indicates no irregularity in the mailing of the April 13, 2005 non-final Office action, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record.

Petitioner requests that the holding of abandonment be withdrawn because petitioner contends that the Office mailed the correspondence to an incorrect address – in particular, an incorrect zip

¹ The undersigned rendered a decision on the petition under 37 CFR 1.181 in March 2006. It appears that petitioner received this decision, but it was not entered into Office databases. Therefore, to close out Office records, the prior Rule 181 decision has been incorporated into the present decision.

code. A review of the oath/declaration submitted with the original application papers reveals that the Office was **expressly directed** to send correspondence to:

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The above address is precisely where the April 13, 2005 non-final Office action was mailed. An applicant is responsible for specifying a correct correspondence address. A delay caused by the failure on the part of the petitioner to provide the Office with a current correspondence address does not constitute an unavoidable delay. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

The application became abandoned because applicant did not inform the Office of the correct correspondence address; therefore, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**.


Applicant has submitted an amendment in reply to the April 13, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the April 13, 2005 non-final Office action, and the petition fee.

The petition under 37 CFR 1.137(b) is **granted**.

The correspondence address for this application is the address associated with Customer Number 56703.

After the mailing of this decision the application will be forwarded to Technology Center AU 3673 for consideration of the amendment filed on April 26, 2006.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.


Shirene Willis Brantley
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Office of Petitions